

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Yuri Alexander Taylor,

Civ. No. 14-3159 (DWF/BRT)

Plaintiff,

v.

REPORT AND RECOMMENDATION

C. Solberg; Mr. M. Richer; and Shinnick,
all sued in their individual and official
capacities,

Defendants.

Plaintiff Yuri Alexander Taylor, a state prisoner, commenced this action by filing a complaint seeking relief for alleged violations of his constitutional rights. In an order dated October 23, 2014, Magistrate Judge Tony N. Leung pointed out that Taylor's complaint was deficient in several respects. (*See* Doc. No. 7.) Taylor was given leave to file an amended complaint by November 25, 2014, failing which it would be recommended that this matter be dismissed for failure to prosecute. *Id.* The deadline for Taylor to file an amended complaint was later extended by Judge Leung to March 20, 2015. This matter has since been reassigned to the undersigned United States Magistrate Judge. (*See* Doc. No. 12.)

The March 20 deadline has now passed, and Taylor has not yet filed an amended complaint. In fact, Taylor has not communicated with the Court at all since Judge Leung granted his request for an extension of the deadline by 120 days for filing an amended

complaint. Accordingly, this Court now recommends, in accordance with Judge Leung's prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

Finally, this Court agrees with the analysis provided by Judge Leung in the October 23, 2014 order explaining that Taylor's complaint fails to state a claim on which relief may be granted. (*See* Doc. No. 7 at 2-4.) That deficient complaint remains operative in this case. Accordingly, in the alternative to this Court's recommendation for failure to prosecute, this Court would recommend that this action be summarily dismissed without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons earlier provided by Judge Leung.

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY RECOMMENDED THAT:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute; or, in the alternative, **SUMMARILY DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim on which relief can be granted.

2. Plaintiff Yuri Alexander Taylor's application to proceed *in forma pauperis* (Doc. No. 8) be DENIED AS MOOT.

Dated: April 1, 2015

s/ Becky R. Thorson

Becky R. Thorson

United States Magistrate Judge

NOTICE

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **April 15, 2015**, a writing that specifically identifies the portions of the Report to which objections are made and the bases for each objection. A party may respond to the objections within fourteen days of service thereof. Written submissions by any party shall comply with the applicable word limitations provided for in the Local Rules. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment from the District Court, and it is therefore not directly appealable to the Eighth Circuit Court of Appeals.